

## NATURAL RESOURCES COMMISSION

### Meeting Minutes

October 3, 2007

Pursuant to the notice filed with the Town Clerk, the meeting of the Natural Resources Commission was held at 141 Keyes Road, Concord, MA at 7:00 p.m. on Wednesday, October 3, 2007. The following Commissioners were present: Chair, Alexander Easterday; Jamie Bemis, Steve Verrill, Montgomery Lovejoy, and George Lewis. Delia Kaye, Natural Resources Administrator; and Cynthia Gray, Natural Resources Administrative Assistant, were also present.

### CONTINUANCES:

**ESTABROOK ROAD NOMINEE TRUST – 55 Estabrook Road / AMEND ORDER, DEP File 137-925**– Request for an amendment to the Order of Conditions involves relocating, removing, and reconstructing an existing paved driveway, removing an existing utility pole and utility meter boxes, expanding a parking court, constructing and maintaining new stone walls around the parking court, and associated landscaping located within the 100-foot Buffer Zone of Bordering Vegetated Wetland and Estimated Habitat of Rare Wildlife.

Attorney Gregor McGregor of McGregor & Associates and Tim Santos of Holmes & McGrath appeared on behalf of the Applicant. Tim Santos noted that the Applicant had changed the design of the parking court to bring it back to the original alignment of the house. This represented a change from the previous application. A hedge with planting area was proposed in the location where a stone wall was originally proposed, as well as a revised drainage swale that addressed Commission comments from the last meeting. Alexander Easterday asked about the driveway. Jamie Bemis noted that the minimum width of the driveway in accordance with DEP regulations is 10 feet. This would be the minimum required for Town approval and for access emergency vehicles. Alexander Easterday requested that the Applicant agree to reduce the driveway to 10 feet. Mike Fox, 13 Estabrook Road questioned the access adjacent to his property. Tim Santos indicated that this didn't apply to this proposed Amended Order of Conditions.

This hearing was continued to October 17, 2007 at which time the Commission expects to close the hearing and issue the Amended Order of Conditions.

**DEE BUS SERVICE – 1135 Main Street / NOI** - Reconstructing an existing building that was demolished due to fire and associated property improvements and restoring wetlands within 200 feet of Riverfront Area of the Assabet River, Bordering Land Subject to Flooding, Bordering Vegetated Wetland and the 100-foot Buffer Zone to Bordering Vegetated Wetland, **DEP File #137-950**

Sean Hale and Jesse Johnson of David E. Ross Associates, Inc. together with Attorney Paul Alphen of Balas, Alphen & Santos, P.C. in Westford appeared on behalf of the Applicant. Applicant, George Dee also appeared.

Sean Hale presented the revised plan which incorporated all of the Commission's requested changes. On Sheet 2 of the revised plan, existing pavement would be removed leaving only 4 parking spaces. Stumps were shown with tree stump sizes. The catch basin was modified and the outlet pipe removed completely. Grading was proposed at a 3:1 ratio regarding the cross section of fill area. On Sheet 3 of the revised plan, changes were incorporated as a result of the Commission site walk. A third restoration area (Restoration Area 3) was added adjacent to the River Bank. Fence was added as a barrier. Shrub plantings were added as well. Restoration Area 1 showed woody debris removed and areas replanted at a 1:1.5 ratio with proposed invasive species control. Alexander Easterday asked about Restoration Area 3 and the absorbent pads as a hand-dug basin was shown on the plan. The emergency response area was also shown within the wetland resource area. Jesse Johnson indicated that they had added topo to widen out the restoration area and they would add reference notes on the plan. Alexander Easterday noted his concern with Applicant showing area disturbance. Montgomery Lovejoy asked about the roll-offs still present on the site. Attorney Paul Alphen noted that the insurance company itself was the client of Clean Harbors and they were awaiting invoices from sub-contractors. Alexander Easterday noted that it had been more than 90 days since the fire and that the roll-offs needed to be pulled out toward the roadway to protect the resource area. Attorney Paul Alphen noted that this was a \$40,000 insurance discussion. Attorney Paul Alphen agreed to send out correspondence immediately to help resolve the matter. Jamie Bemis asked about the bittersweet and proposed invasive species control. Sean Hale noted that a cut and dab method would be used. Jamie Bemis asked about the smell of oil in the soil and was there any plan to address that issue. Were soil test done? George Lewis noted that the smell might in fact be coming from the absorbent pads themselves. Sean Hale indicated that a monitoring report would be provided. Alexander Easterday asked about the Operations and Maintenance Plan. Jesse Johnson indicated that there was a proposed plan for the site in general and that it was noted in paragraph 1.01 (Monitoring and Operation) of Sheet 2 of the revised plan who would be responsible for the monitoring. Jesse Johnson indicated that wooden guardrail fence, similar to that which is already in place, would be used to encourage recreational use. Delia Kaye and Alexander Easterday noted that mowing in that area should be limited to twice/year in order to restore the area to its natural condition, not mowed grass or not manicured lawn. Montgomery Lovejoy noted that the fence serves to keep vehicles out of the area. Montgomery Lovejoy asked about Applicant's possible pending transaction or redevelopment of the site and what was the Owner's intent. Attorney Paul Alphen noted that the Applicant was before the Zoning Board of Appeals to rebuild the building as it was before, but that the ZBA could not issue a permit until Applicant complied with all other applicable Town boards. Once the ZBA issued the requested Special Permit, the Applicant could either put the retail business back in order or market the property. Jamie Bemis noted her hesitancy in going forward on the honor system as she made reference to the past history with the Applicant.

This hearing was continued to October 17, 2007 at which time the Commission expects to close the hearing and issue a permit with Special Conditions relative to (1) housekeeping within the bordering vegetated wetland; and (2) roll-offs being removed from the site.

### **NEW APPLICATIONS:**

**KITTREDGE** – 77 Westford Road / **RDA #07-16** – Agricultural work around greenhouse area consisting of clearing trees around the drainage ditch and brush cutting and expanding the current irrigation system of the pond and replacing and relocating the culvert within the 100-foot Buffer Zone to Bordering Vegetated Wetland within Spencer Brook Farm.

Dan Kittredge, Applicant and farm manager appeared. Maps and pictures were submitted with Applicant's RDA. Dan Kittredge indicated that the clearing of trees was exempt as this was considered an agricultural use. Photos showed trees adjacent to the greenhouses. Alexander Easterday asked if the greenhouses had been moved. Dan Kittredge indicated that they had dug out the irrigation pond back during the spring time and that the pond was expanded while he was on vacation. Delia Kaye noted that the access road on the other side of the pond had never been seen by DNR staff. Delia Kaye noted that the clearing of trees by the greenhouse needed to be identified because of stream Bank. Applicant needs to file a conservation plan with regard to expanding the irrigation pond, as nothing is currently on file. Replacing the culvert noted stream relocation and the siltation issue requires an actual Notice of Intent be filed instead of an RDA, as previously indicated to Applicant by NRC staff. Alexander Easterday asked Dan Kittredge if he still wanted to pursue the RDA, and if so, a Commission site walk would be in order, even though a NOI was recommended.

A site visit was scheduled for October 9, 2007 at 3:30 p.m. This hearing was continued to October 17, 2007 (no Continuance form required – RDA filing).

**ESTABROOK ROAD NOMINEE TRUST** – 55 Estabrook Road & 33 Liberty Street / **NOI** – Removing an existing stone wall, construction and maintenance of stonewalls, invasive species removal, wetland restoration and replacement mitigation, construction and maintenance of a timber footbridge over an intermittent stream and landscape plantings within Bordering Vegetated Wetland, the 100-foot Buffer Zone to Bordering Vegetated Wetlands and Bank, and Estimated Habitat of Rare Wildlife, **DEP File #137-951**

Attorney Gregor McGregor of McGregor & Associates in Boston; Tim Santos and Jeff Johnson of Holmes & McGrath; David Newton of C. H. Newton Builders of Falmouth; E. A. Wells, Wetland Scientist of Ashland, and Ted Dierker, Landscape Architect of Oslund and Associates in Minneapolis, MN appeared on behalf of the Applicant.

Attorney Gregor McGregor noted that this is a team planning and design effort. David Newton noted that his company is sensitive to erosion conditions and pride themselves on keeping a site clean. Tim Santos noted the construction of a proposed new stone wall on the westerly part of the premises. A 30-foot wide strip had just recently been acquired from Kevin and Leila Parke. The US Department of the Interior had been consulted with regarding the right of way on the Parke land as there are two areas of access. A footbridge was proposed in the field on the south side of the stream. Selective pruning with invasive special control and relocation of plantings to the southeast portion of the property were also proposed. David Newton indicated that the construction of the entire wall would take approximately two months. Screen plantings would be

done as soon as possible. Alexander Easterday asked about the screening of the trees. Ted Dierker noted the easement across the interior. David Newton indicated that Nancy Nelson, Superintendent of Minute Man National Heritage Park was not opposed to this project. Alexander Easterday requested that this be put in writing. Alexander Easterday asked about compaction and how it would be mitigated. Ted Dierker noted that it would be done during the driest time. They would use Bob Marcelli's tree spade. Jamie Bemis questioned the size of the trees being planted as they would impose serious weight in the wetlands. David Newton noted that the use of a tree spade does the job more smoothly than a crane. George Lewis noted the number of back and forth trips. Montgomery Lovejoy noted that with smaller planting equipment, there would be stock-piling of earth which has a greater impact than larger equipment. Ted Dierker noted that his company did a project in Minneapolis in which 200 trees were successfully done. Montgomery Lovejoy asked about delineation and the frequency of mowing. Mary Fox, 13 Estabrook Road, an abutter to the Park Service right of way expressed concern about the low canopy trees and would they be repaired and replaced if damaged. Mary Fox asked if there was another means of access. Leila Parke, 33 Liberty Street indicated that the Applicant would have to move an antique stone wall. David Newton indicated that the Applicant had only purchased 81 Estabrook Road.

A site visit was scheduled for October 9, 2007 at 2:00 p.m. This hearing was continued to November 7, 2007 in order to accommodate for requested materials.

#### **CLOSE HEARINGS / ISSUE PERMITS:**

##### **GENOVA/MAXEY -46 Shore Drive, DEP File #137-952**

Montgomery Lovejoy moved to close the hearing. George Lewis seconded. All so voted. George Lewis moved to approve the two Findings. Steve Verrill seconded. All so voted. Montgomery Lovejoy moved to issue a standard Order of Conditions with Special Conditions 18-41. Steve Verrill seconded. All so voted.

##### **THE COMMERFORD REALTY TRUST – 140 Commerford Road and 14B Commerford Road, ANRAD, DEP File #137-953**

Montgomery Lovejoy moved to close the hearing. George Lewis seconded. All so voted. Montgomery Lovejoy moved to approve the Findings. George Lewis seconded. All so voted. George Lewis moved to issue an Order of Resource Area Delineation with Findings. Steve Verrill seconded. All so voted.

##### **BENNOS – 109 Hawthorne Lane, DEP File #137-949**

Steve Verrill moved to close the hearing. George Lewis seconded. All so voted. George Lewis moved to issue a standard Order of Conditions with Special Conditions 18-41. Montgomery Lovejoy seconded. All so voted.

### **CERTIFICATES OF COMPLIANCE:**

#### **TD BANKNORTH, N.A. – 59 Walden Street, DEP File #137-884 (Partial)**

George Lewis moved to issue a Partial Order of Conditions. Montgomery Lovejoy seconded. All so voted.

#### **TOWN OF CONCORD – 341 Virginia Road, DEP File #137-512**

Montgomery Lovejoy moved to issue a Certificate of Compliance. Steve Verrill seconded. All so voted.

#### **TOWN OF CONCORD – 341 Virginia Road, DEP File #137-528**

Steve Verrill moved to issue a Certificate of Compliance. Jamie Bemis seconded. All so voted.

#### **NASHAWTUC COUNTRY CLUB – 1861 Sudbury Road (Partial), DEP File #137-893**

Montgomery Lovejoy moved to issue a Partial Certificate of Compliance. Steve Verrill seconded. All so voted.

### **OTHER BUSINESS**

#### **335 Walden Street (Chick land) with Peter Farrow and Holly Darzen, Concord Housing Trust**

Peter Farrow, attorney/developer and Holly Darzen, designer, approached the Commission with the proposal to make full use of this 8-acre parcel that became open conservation space, although it is a constrained site within the flood plain. Peter Farrow and Holly Darzen are proposing 8 units be constructed on the site. It was suggested that they dialogue with the Water & Sewer Department and that they hire an engineer to review the proposed project.

#### **Approve September 19, 2007 Meeting Minutes**

Jamie Bemis moved to accept the September 19, 2007 Meeting Minutes as written. Montgomery Lovejoy seconded. All so voted.

#### **Approve September 24, 2007 Meeting Minutes**

Jamie Bemis recused herself. Steve Verrill moved to accept the September 24, 2007 Meeting Minutes as written. Montgomery Lovejoy seconded. All so voted.

#### **Village Overlay Committee Liaison**

Delia Kaye requested that one Commission member volunteer to be the NRC Liason. Jamie Bemis moved to appoint Alexander Easterday as NRC Liason to the Village Overlay Committee. Montgomery Lovejoy seconded. All so voted.

The meeting adjourned at 9:45 p.m.

Respectfully submitted,

Delia R. J. Kaye, Natural Resources Administrator

Cynthia L. Gray, Natural Resources Administrative Assistant